

### REMARKS

The pending claims are 1-21, of which Claims 1 and 12 are in independent form. Claims 1 and 21 are amended to more clearly define what Applicant regards as the invention. Favorable reconsideration is respectfully requested.

Initially, Claim 21 is amended merely to clarify that the front access opening --of said front panel and said top panel when removed in whole or in part form a continuous opening--. Support for this change is located, *e.g.*, at page 3, para. [0009] and in Figure 2.

Further, Applicant thanks the Examiner for the indication that Claims 12-20 are allowed and, further, that Claims 5, 6 and 21 would be allowable if rewritten to overcome the rejections as set forth below. Respectfully, however, the latter three claims have not been so rewritten for the reasons that follow.

Claims 1-4 and 8 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. Patent No. 3,593,908 (*Desmond*) in view of U.S. Patent No. 4,752,029 (*Buford*). Along with Claim 11, these claims are also again rejected as allegedly unpatentable over U.S. Patent No. 4,602,735 (*Aaron*) in view of *Buford*. Separately, Claim 7 is again rejected under §103(a) as allegedly unpatentable over the above art combinations, further in view of either U.S. Patent No. 5,857,586 (*Scherr*) or U.S. Patent No. 4,560,062 (*Valiulis*). Claims 9 and 10 are rejected under §103(a) as allegedly obvious over the prior art combinations as applied to Claim 3, further in view of U.S. Patent No. 6,213,388 (*Ours et al.*). Applicant respectfully traverses the above rejections.

In response to Applicant's previously-submitted arguments, the Office Action indicates that, allegedly, "the top panel 17 in Desmond or 16 in Aaron are each clearly capable of being removed at least in part as claimed by simply cutting a hole in the panel." Office Action, page 4, para. 8. Without conceding the propriety of this argument and solely to advance the application to issue, Applicant has now amended Claim 1 merely to clarify that the claimed carton includes a top panel --joined at perforations to said side panels and joined to said back panel that is removable in whole or in part along said perforations to expose product through the top of the carton--. Support for this amendment is located throughout the specification, particularly at page 8, para. [0023] and in Figure 2. Accordingly, no new matter has been added.

Amended Claim 1 defines a carton with an improved access opening for better product display and carry away ease by providing a removable top along perforations. In particular, the perforations allow for controlled and selective removal along natural lines of the carton, rather than through arbitrary and conventional tearing or cutting. This is advantageous in that it both maintains the integrity and aesthetic appearance of the carton, and provides for near-effortless removal of the top panel. In contrast to the carton as defined in Claim 1, neither *Desmond* nor *Aaron* is believed to teach, or even suggest, the foregoing features.

*Desmond*, as understood by Applicant, is directed to a vertically-standing dispenser bin with an opening bordered by moveable bottom front panel portion 32, the fixed upper front panel portion (not labeled) and bin side panels 42. *See* Fig. 11. Without any perforations at the edges where the top panel meets the upper front panel portion or side walls 34, however, the top panel 17 cannot be controllably removed in whole or in part

without compromising the integrity of the dispenser bin as, for instance, by cutting. Thus, the construction of *Desmond* renders impossible a greater access opening, particularly one that is continuous with the radially-openable front access panel.

Similarly, *Aaron* is directed to a vertically-standing dispenser, wherein the opening is defined by a pull-out lower front panel portion 10, bin side panels 11 and upper front panel portion 18. As with *Desmond*, however, the absence of any perforations where top panel 16 meets side walls 22, as well as the presence of the upper front panel portion 18, prevent controlled removal of the top panel portion 16, so as to form a continuous opening with the moveable front panel portion 10. *See*, e.g., Figs. 1 and 2. As a result, the present reference cannot provide customers with easier access to the products stored inside.

Applicant respectfully submits that *Buford* fails to remedy the deficiencies of both *Desmond* and *Aaron*. Specifically, nothing in *Buford* has been found that would teach or suggest a top panel joined at perforations, along which the top panel may be removed in whole or in part. Rather, Applicant understands *Buford* as directed to merely another vertically-oriented carton with an upper front panel portion 12 obstructing the formation of a continuous opening created by the controlled removal of a top panel and the open position of a outwardly-extending panel. *See*, e.g., Figs. 7-9. Indeed, any combination of either base reference with *Buford* would, in Applicant's opinion, merely result in a dispenser bin having a lower front panel access portion situated above a lip accommodation panel. Yet, critically, such combination would still fail to provide any suggestion to one of ordinary skill, seeking to make an improved access opening, as to a removable top panel joined at perforations to the side panels.


Accordingly, Claim 1, together with the claims dependent thereon, is believed to be patentable over both the combinations of either *Desmond* or *Aaron* with *Buford*. Applicant thus respectfully requests withdrawal of the present rejections under 35 U.S.C §103(a).

Further, a review of *Scherr*, *Valiulis* and *Ours* has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of *Desmond* or *Aaron* in view of *Buford* as discussed above. Each of *Scherr*, *Valiulis* and *Ours* is silent as to any suggestion of a top panel joined at perforations and that is removable in whole or in part along said perforations. Therefore, Claims 7, 9 and 10 are likewise believed additionally patentable over these references as cited by the Examiner.

Wherefore, it is respectfully submitted that the cited art does not disclose or suggest the presently claimed invention. Accordingly, passage to issue of the presently claimed invention is respectfully requested.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

  
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